IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Revision Application No. 497 of 2006

Shri Virendrakumar Shobhagmal Jain — Applicant
Vs.
State of Maharashtra — Respondent

Mr.B.W. Kakade for applicant.
Mr.U.V.Nikam, APP for State.

CORAM: B.H.MARLAPALLE,J.

January 22, 2007.

P.C.

. Heard the learned counsel for the applicant who had approached the learned Addl. Sessions Judge by filing Misc.Application No.180 of 2006 in Sessions Case No.8 of 2006 as well as 86 of 2006 and in the same he had prayed for being discharged as an accused. The application has been rejected by the learned 2nd Ad-hoc Addl. Sessions Judge vide order dated 1/12/2006. Hence this revision application by the applicant-accused no.6.

. Undoubtedly the memorandum statement under Section 27 of the Evidence Act as recorded at the instance of the accused person is a matter of evidence and the prosecution must be allowed to be provided with this opportunity. The charge framed is under Sections 412 and 414 of IPC and at this stage

it would not be permissible to discharge the applicant - accused no.8 on the ground that the memorandum statement under Section 27 of the Evidence Act is made by one of the accused and he cannot be a witness. These contentions have been rightly considered and rejected by the learned 2nd Ad-hoc Addl. Sessions Judge and, therefore, no interference is called for in the order dated 1/12/2006.

. The application is, therefore, rejected.

(B.H